

TEACHING/LEARNING THE ENVIRONMENT WITHIN ENVIRONMENTAL LAW STUDIES.

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Abstract

Environmental lawyers need legal as well as environmental knowledge. They need both specialised legal knowledge and expertise, and ancillary environmental background. Without such a background it is impossible for them to understand and to solve properly legal problems related with the environment. This paper discusses several possible ways of integrating the study of environmental subjects within the Law School curriculum. It gathers the experience acquired by the University of Navarra School of Law since 2000 during the implementation and first years of the Diploma en Derecho Ambiental”, a degree curricula that integrates a set of legal and scientific subjects prepared for Law students interested in environmental issues.

Keywords

Environmental Law, Law Studies, Environment.

1. INTRODUCTION

In the current social context, the interest for environmental issues goes beyond the boundaries marked by the natural sciences. In this sense, every day more efforts are made to integrate environmental knowledge into the different levels of education, specially within graduate and postgraduate programs [1] [2]. The rationale behind this integration is founded on the persuasion that a better environmental education is an important mean to attain a sustainable development. Quoting Federico Mayor, the former UNESCO Director-General, we can say that: “The key to sustainable, self-reliant development is education - education that reaches out to all members of society, through new modalities and new technologies in order to provide lifelong learning opportunities for all... We must be ready, in all countries, to reshape education so as to promote attitudes and behaviour conducive to a culture of sustainability”[3]. There are a set of international documents sharing this view: The 10 point Action Plan of the Tallories Declaration [4], The Kyoto Declaration [5], The Copernicus University Charter for Sustainable Development [6], The World Declaration on Higher Education for the Twenty-first Century: Vision and Action [7], The Lüneburg Declaration on Higher Education for Sustainable Development [8], and The GHESP Action Plan [9], *inter alia*. In December 2002, the United Nations declared 2005-2014 the Decade of Education for Sustainable Development (UN Resolution 57/254) [10], and UNESCO was entrusted with its coordination and leadership.

Law in general, interact with specific social environments when it is used as a means for solving problems. Environmental law is not an exception to that rule; it is the main channel used by policy designers (Legislators, Governments, International Organisations) to avoid or moderate the impact of human activities upon our planet and its natural resources. The instruction of law students who intend to work in the field of Environmental law as policy designers, as lawyers, as consultants to NGOs, Governments or firms, should include the acquisition of ancillary environmental knowledge and expertise needed to understand the real problems that lie behind the Environmental law issues. Different possibilities could be thought to integrate such instruction within the Law studies. In the University of Navarra Law School we opted in 2000 for a curricular concentration of the Law degree.

2. THE INTERACTION BETWEEN LAW AND REALITY

Law contributes to shape reality as it is, but it is also strongly influenced itself by the piece of reality subjected to regulation. If a specific public policy designed to be legally implemented does not take into account both the social and the environmental characteristics of the regulated reality, it could end by causing serious damages. Calculating the effects of the statutory framework implementation upon

the reality to which it is applied is an important part of every proper policy making. That is particularly the case with Environmental law, where the precautionary principle plays an important role. In this sense, the Treaty of the European Community, in paragraph 174, affirms this principle to be one of the principles that should guide the whole environmental policy of the European Community.

Let us take an example, such as risk assessment. The precautionary principle should be applied, within a structured approach, to the analysis of risk, which comprises at least three elements: risk assessment, risk management and risk communication [11]. The precautionary principle is relevant to those public decisions involved in the management of risk, and it requires of a previous risk assessment based on the best scientific evaluation available. The European Directives on Environmental assessment stem from the same premise: the reality of things, the local conditions of the environment should be considered before approving or implementing regulatory frameworks. Environmental assessment is therefore an important tool for integrating environmental considerations into plans and programmes which are likely to have significant effects on the environment, because it ensures that such effects of implementing plans and programmes are taken into account during their preparation and before their adoption [12]. Reality and law interact and that phenomenon should not be forgotten by rule makers and those in charge of the implementation of the legal regulatory framework.

3. TEACHING ENVIRONMENTAL LAW REQUIRES SOME KNOWLEDGE OF THE ENVIRONMENT

It is difficult to understand the sense of a legal rule or concept when lacking a proper idea of the problems that rule is intended to solve or almost the problems that motivated such legal answer. This general rule is specially applicable to environmental law. Without some knowledge of the sources and consequences, for instance, of air pollution it is very difficult to apply properly the legal tools passed to prevent or control activities that produce this kind of pollution. Without such knowledge it is even difficult to merely understand the regulations related to air pollution prevention and control. Seemingly, lawyers who do not know which factors influence soil pollution, could hardly be able to solve problems of liability related with contaminated sites. And so on. Only on the basis of a certain amount of knowledge on the environment lawyers are enabled to work in the field of Environmental law. It is certainly not necessary to have all the scientific background needed to solve environmental problems; we do not need to have a degree or a bachelor in Environmental studies to work in that field. But ancillary knowledge and expertise is without doubt required. The problem is how to integrate both fields in the curriculum of the law students.

4. HOW TO INTEGRATE THE STUDY OF THE ENVIRONMENT IN THE LAW STUDIES

The integration of environmental knowledge within the law studies is highly influenced by the characteristics of the legal framework applicable to these studies. The fact that the law degree is a graduate degree in Spain (four or five years) is an important factor that should be taken into account to understand what follows. We use graduate degree in a sense different from what is understood as bachelor degree and as master degree. It is not a master but it includes not only the basics about law but also the training in some specific professional skills.

With that previous premise, four options are thinkable. First: a double graduate degree in Law and Environment. Second: a degree in Law with elective subjects related to the environment chosen by law students from Environmental or Geography degrees curricula. Third: Law degree with a Master in Environment or a Environmental Law Master with specific subjects of environment. Fourth: the integration of specific environmental subjects, as electives, within the Law degree, taught only to law students. This fourth option is the one we chose: Environmental law as a curricular concentration with specific subjects both legal and environmental.

Every one of these four options have their pros and cons. The first option in Spain would require between six and eight years to be completed. In the end it enables the student to work as a lawyer or as a scientist, but hinders further specialization through Master or Doctoral degrees. It also discourages the study of other fields like urban development or town and country planning which are not included sufficiently in depth in the curriculum of our Environmental Biology degree. The second option integrates acquisition of the needed environmental knowledge and skills during the four years

of a graduate degree, but triggers a serious communicative problem as law students would lack the language required to attend specialised classes characteristic of the third or fourth year of Environmental Biology. The position of these students in the class could be an uneasy one and even negative for their Biology mates who might share class with them. The third option is a good one although it delays the acquisition of specific environmental knowledge and skills to a postgraduate program. The fourth option integrates the environmental teaching and learning within the law degree providing the future environmental lawyers with tools needed to understand this field of law. It fosters further specialization and gives the students a specific sense of the environmental aspect of legal problems during their law studies.

5. THE EXPERIENCE OF THE NAVARRA'S LAW SCHOOL

The experience of the University of Navarra's Law School follows the fourth option previously described. It is therefore a limited project of curricular concentration on environmental regulation. The experience began in 2000. We were conscious of the necessity that our law students interested in environmental law had to learn the basics about the environment, and we decided to facilitate to them that learning while completing their degree at the law school. To accomplish that goal we had to find a team of doctors ready to teach environmental science and management, and environmental law to law students. We also needed to design a reasonable and proportionate curriculum.

The first task, to find the team, was an easy one due to its previous participation in an interdisciplinary research project: "Infraestructuras lineales y fragmentación territorial" (Lineal infrastructures and landscape fragmentation) funded by the own University of Navarra in 1999. We believe research should always precede teaching, and that a good research is also the one that produces results that could be taught. The leading team of the research project including a PhD on Biology, a PhD on Geography, and three PhDs on Law each of them with publications in Environmental law, where the basic team in charge of the new Environmental law concentration at the University of Navarra the "Diploma de Derecho Ambiental".

The next step was to design a curriculum for our new Environmental law concentration. Six subjects were required to create a Diploma. Some of them were electives, other were optional subjects for the law degree, so that the law students interested in the concentration should not take additional credits to the required to complete their law degree. The subjects finally chosen were:

- Introduction to the environment.
- Introduction to Environmental law.
- Environmental impact assessment, and regional planning.
- Environmental Law I.
- Environmental Law II.
- Environmental project management and legal counselling on environmental issues.

Every one of the cited subjects is taught by PhDs in Biology, Geography or Law, at the Law School to the law students. Each subject has 6 credits in the still applicable Spanish system; which means that require 60 hours of class or of class and tutorial activities (70/30%); more or less equivalent to 4.5 ECTS.

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